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PATENT APPLICATION

ATTORNEY DOCKET NO. 10008080-1

Inventor(s): Travis J. Perry

Confirmation No.: 2440

Application No.: 09/990,005

Examiner: Kamal B. Divecha

Filing Date: November 21, 2001

Group Art Unit: 2151

Title: IMAGING DEVICE CONFIGURATION AND UPGRADE

Mail Stop Appeal Brief - Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1460

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Transmitted herewith is/are the following in the above-identified application:

- Response/Amendment
 - New fee as calculated below
 - No additional fee
 - Other Reply Brief (12 pgs.)
 - Petition to extend time to respond
 - Supplemental Declaration
- Fee\$

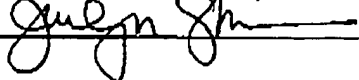
CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY						
(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT	(3) NUMBER EXTRA	(4) HIGHEST NUMBER PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEES
TOTAL CLAIMS		MINUS		= 0	X \$52	\$ 0
INDEP. CLAIMS		MINUS		= 0	X \$210	\$ 0
<input type="checkbox"/> FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM					+ \$370	\$ 0
EXTENSION FEE	<input type="checkbox"/> 1st Month \$120	<input type="checkbox"/> 2nd Month \$460	<input type="checkbox"/> 3rd Month \$1050	<input type="checkbox"/> 4th Month \$1640		\$ 0
OTHER FEES						\$
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Typed Name: Jaclyn M. Skiba

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Respectfully submitted,

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Rev 10/06 (TransAmndFax)

First Named Inventor	Travis J. Parry	REPLY BRIEF
Serial No.	09/990,005	
Filing Date	November 21, 2001	
Group Art Unit	2151	
Examiner Name	Kamal B. Divecha	
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REPLY BRIEF

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I. Introduction

Appellant filed a Notice of Appeal to the Board of Patent Appeals and Interferences on November 21, 2006. Appellant filed an Appeal Brief on January 19, 2007, an Amended Appeal Brief on April 10, 2007, and a second Amended Appeal Brief on July 18, 2007. An Examiner's Answer addressing Appellant's Amended Appeal Brief was mailed on October 24, 2007.

II. Response to Examiner's Argument

A. Claim Interpretation

In the Examiner's Response to Argument's section (10)(b)(i), the Examiner stated:

As acknowledged by the appellant, MPEP 2173.01 and 2111 states: "where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999)). See, MPEP §2173.01 and §2111.

The interpretation of the term "imaging devices" is in fact controlled by the explicit definition provided in the original specification. For example: See spec., pg. 1 [0002] and pg. 4-5 [0019].

Stated another way, appellant specification is clearly evidenced to define imaging devices to include "printers, multi-function copiers, faxes, digital cameras, digital projectors, terminals, and other such imaging devices (See spec., pg. 1 [0002] and pg. 4-5 [0019]).

As is known to one of ordinary skilled in the art, the terminals can represent and/or can be interpreted to include workstations and/or desktop computers, and vice versa.

As such, Examiner maintains that the appellant definition does suggest workstations and/or desktop computers to be interpreted as the imaging device.

(Examiner's Answer, pages 13-14, last paragraph. {Emphasis in Original})

Appellant respectfully disagrees with the Examiner's interpretation.

During examination, the Examiner is required by MPEP §904.01 to give the claims "the broadest reasonable interpretation consistent with the specification."

However, as stated in MPEP §2111, “[t]he broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach.”

Appellant notes that in MPEP §2111.01, cited by the Appellant in the Appeal Brief and acknowledged as precedential by the Examiner, recites in §2111.01(IV) that “Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim”, and that “The specification should also be relied on for more than just explicit lexicography or clear disavowal of claim scope to determine the meaning of a claim term when applicant acts as his or her own lexicographer; the meaning of a particular claim term may be defined by implication, that is, according to the usage of the term in >the< context in the specification. See *Phillips v. AWH Corp.*, *415 F.3d 1303<, 75 USPQ2d 1321 (Fed. Cir. 2005) (*en banc*); and *Vitronics Corp. v. Conceptoronic Inc.*, 90 F.3d 1576, 1583, 39 USPQ2d 1573, 1577 (Fed. Cir. 1996).”

Appellant respectfully contends that, while the Specification of the Present Application does define imaging devices to include “printers, multi-function copiers, faxes, digital cameras, digital projectors, terminals, and other such imaging devices” (*See, e.g.,* Specification, paragraphs [0002] and [0019]), the Specification in the listings at paragraphs [0002] and [0019] do not specifically list or state that workstations and desktop computers are imaging devices, as the Examiner contends. In addition, contrary to the Examiner’s assertion, as also noted in the Appellant’s Brief (*See, e.g.,* Appellant’s Brief, page 16, last paragraph), the Specification of the Present Application also specifically discloses in usage that workstations are not imaging devices by listing them as separate devices on the network from the “imaging devices” that were defined above (*See, e.g.,* Specification, paragraph [0007] and Figure 1).

Appellant therefore contends that the Examiner is thus not following the Examiner’s own assertion that the definition of the Specification is controlling. In addition, the Examiner is not following the dictates of MPEP §2111.01 that one should give the claim terms their “plain meaning” as explicitly defined. Instead, the Examiner seems to be relying on what the definition of the Specification “suggests,” as the

Examiner states it, in listing “terminals” as being imaging devices. The Examiner then asserts that this is how one of ordinary skill in the art would also view it. In doing so, the Examiner ignores “plain meaning” of the terms as explicitly defined, which do not define workstations or desktop computers as “imaging devices, and ignores the explicit usage evidence that is contrary in the “controlling” Specification that workstations are not considered imaging devices in the Specification’s definition of the term.

Appellant contends that it has shown that several of the factors on which the Examiner relies in support of in interpretation of claim terms and in rejection of Appellant’s claims are in error. Specifically, that terminals are not the same as workstations or desktop computers in the Specification, either explicitly or inherently, and therefore are not explicitly defined as “imaging devices” in the Specification or claims. In addition, there is usage evidence of the terms workstation and imaging devices in the Specification that is contrary to the Examiner’s interpretation. As such, Appellant contends that the Examiner has not met the burden of proof in order to support the Examiner’s asserted interpretation of claim terms and subsequent rejection of those claims utilizing this interpretation.

B. The disclosure of Schlonski et al.

Overview:

Appellant respectfully continues to maintain, as noted in Appellant’s Brief, that Schlonski et al. (U.S. Published Application No. 2002/0196451 A1) discloses a two part system of an Administrator’s workstation (not an imaging device, as maintained by the Examiner) and a plurality of printers networked together. In this, the printers of Schlonski et al. have embedded webservers, and each local embedded webserver only allows observation and management of the printer it is embedded in. The management program running on the Administrator’s workstation presents a unified view of the printers and presents links to allow the Administrator to surf directly to the printer to manage it through it’s own local embedded webserver. Schlonski et al. also discloses that the management program running on the Administrator’s workstation allows copying

a configuration from a selected template printer to a target printer. See, Appellant's Brief Page 27: Schlonski et al., Abstract; Figures 2-5; Paragraph 0027, Page 3; Paragraph 0030, Page 3; Paragraph 0032, Page 3; and Paragraph 0035, Page 3.

Appellant thus maintains that, even if the workstation of Schlonski et al. is considered an imaging device as defined (which the Appellant disputes, as detailed above), in the system of Schlonski et al. the Administrator transfers from display pages generated by the management program or webserver (if any) of the workstation offering the list view of the networked printers to pages being generated by entirely different local webserver/programs on the printers. As such, the workstation "image device" and system of Schlonski et al. does not keep the user/Administrator on pages generated by the embedded webserver of the workstation (the purported first imaging device of the Examiner's rejection) as required by the Appellant's claims.

Appellant also respectfully maintains that Schlonski et al. also does not disclose or suggest the following other missing elements from the Appellant's claims of (i) a (single) first imaging device that has an embedded webserver/management facility that allows management and configuration of the first printer, and that (ii) maintains a list of other imaging devices on the network on the first imaging device, (iii) copies a configuration of the first imaging device to selected other imaging devices on the list, and (iv) interfaces with the user/Administrator with commands received at and webpages presented by the embedded webserver/management facility of the first imaging device to a browser accessing it across a network.

In view of the foregoing, and as supported in its Amended Appeal Brief filed July 18, 2007, Appellant contends that claims 1-22 are patentably distinct from Schlonski et al. and that Schlonski et al. does not teach or suggest each and every limitation of Appellant's claims.

Management program not surfed to to access it on the workstation of Schlonski et al.

In the Examiner's Response to Argument's section (10)(b)(ii), the Examiner stated:

“(ii) Appellant also continues to respectfully maintain, as detailed above, that in the system disclosed in Schlonski et al. the Administrator directly utilizes a management program on a workstation (the ‘imaging device’ of the Examiner's rejection). Thus, Appellant continues to respectfully maintain that the management program of Schlonski et al. is not disclosed as being resident on the imaging device being configured, such that the Administrator is required to ‘surf’ across a network with a browser to utilize the management program through the imaging device's embedded web server (Brief, pg. 27, pg. 28).

In response to argument (ii), Examiner respectfully disagrees.

...

Based on applicant specification above and the embedded web access mechanism disclosed in US Patent No. 5,956,487, its fairly clear to one of ordinary skilled in the art that Schlonski does teach a management facility, which in fact is in the form of an embedded web server and/or web page of a network printer (See appellant spec., pg. 5 [0020-0021] and Schlonski, pg. 2 [0025], [0027]), which is resident on the printer being configured, i.e. an imaging device (See Schlonski, pg. 3 [0032-0033]), wherein the administrator is required to surf across the network utilizing a network browser of a computer 12 in order to utilize the management facility or program through the embedded web server (See Schlonski, pg. 3 [0032-0033] and fig. 4 reproduced above: An Internet Browser Web Interface for Printer Administration)”

See, Examiner's Answer, Examiner's Response to Argument's section (10)(b)(ii), pages 14-19.

Appellant respectfully disagrees with this statement and is unsure what the Examiner is stating with it. Appellant is not disputing that printers are known in the prior art having embedded webservers that allow the printer to be managed and configured by surfing to the embedded webserver/management facility of the printer across a network with a browser. Appellant is also not disputing that workstations running management programs, as disclosed in Schlonski et al., are known or that they can present

consolidated displays of the printers on a network and allow the Administrator to surf to each printer's internal embedded webserver to manage it.

The Examiner seems to be relying on the Examiner's assertion that workstations are imaging devices as defined in the Specification. However, as detailed above, Appellant disputes that the workstation of Schlonski et al. is the same as an "imaging device" as defined by the Appellant's Specification or even that the workstation is the same as the client printers with their local embedded webserver of Schlonski et al.

In addition, even if this was to be considered the case, Appellant also respectfully maintains that the workstation of Schlonski et al. is functionally different than the imaging devices of the claimed invention or the printers of Schlonski et al. and does not disclose or suggest that with the workstation in that the can "surf" across the network to access the management program resident on the workstation, while this must be done to access the management programs of the printers/ claimed imaging devices. In addition, the management program of the workstation of Schlonski et al. does not disclose or suggest that it configures the workstation itself with the management program and does not disclose or suggest copying a configuration of workstation itself to other selected imaging devices on the network from the list.

In view of the foregoing, and as supported in its Amended Appeal Brief filed July 18, 2007, Appellant contends that the management program on the workstation of Schlonski et al. does not require the Administrator to "surf" across a network with a browser to utilize the management program through the imaging device's embedded web server. As such, claims 1-22 are again patentably distinct from Schlonski et al. and that Schlonski et al. does not teach or suggest each and every limitation of Appellant's claims.

The Management program not configuring the workstation of Schlonski et al.

In the Examiner's Response to Argument's section (10)(b)(iii), the Examiner also stated:

(iii) In addition, Appellant maintains that in Schlonski et al. the workstation ("imaging device") displaying the list of other imaging devices is also

not disclosed as being configured itself by the management facility (Brief, pg. 27). In response to argument (iii), Examiner respectfully disagrees.

...

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., an imaging device displaying a list of other imaging devices as being configured itself by the management facility) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In other words, the imaging device as in the claims is not being configured itself without any browser interactions. The term "configured itself" may include self-configuration" and/or "automatic configuration" without any external interactions and the claimed language clearly fails to teach, disclose or even suggest such a feature.

See, Examiner's Answer, Examiner's Response to Argument's section (10)(b)(iii), pages 20-21. {Emphasis in Original}

Appellant disputes this assertion and respectfully maintains that the Appellant's claims do specifically disclose and recite these limitations. Specifically, independent claim 1 recites, in part, "*An imaging device*" and "wherein the processor is adapted to store a configuration for *the imaging device*." Independent claim 11 recites, in part, "*communicating a configuration change from a browser across a network to a management facility on a first imaging device*" and "communicating the configuration change from the first imaging device to the at least one other imaging device selected from the list of other imaging devices." Independent claim 15 recites, in part, "*communicating a configuration change by surfing across a network with a web browser to a management facility accessible through an embedded webserver of a first imaging device*" and "processing the configuration change on the first imaging device, thereby *generating a configuration on the first imaging device*." Independent claim 21 recites, in part, "*processing a configuration change on a first imaging device*."

Appellant respectfully maintains that therefore independent claims 1, 11, 15 and 21 do indeed claim the limitation that the first imaging device displaying the list of other

imaging devices is configured itself by the management facility. As claims 2-10, 12-14, 16-20 and 22 depend from and further define claims 1, 11, 15 and 21, respectively, they are also considered as claiming the limitation that the management facility allow configuration of the first imaging device that the management facility/embedded webserver is resident on.

Appellant is also unsure as to why the Examiner is asserting that the phrase "configures itself" means that the Applicant is claiming an imaging devices that automatically configures without external interactions. Appellant respectfully contends that the statement that the imaging device displaying the list of other imaging devices is configured itself by the management facility asserted only that the Administrator could use the embedded management facility resident on the imaging device displaying the list of other imaging devices to configure the image device itself and that, in contrast, the management program of Schlonski et al. did not configure the workstation it was resident on.

Appellant thus contends that claims do clearly describe the invention in a way to enable one skilled in the art to make or use the invention and that the relevant features of claims 1-22 have been claimed described in the specification to allow one skilled in the art to practice the invention. The Appellant therefore requests that the Examiner's assertion be overturned in that the specification does clearly describe the invention in a way to enable one skilled in the art to make or use the invention and that this is clearly and definitely claimed.

In regards to the Examiner's assertion on pages 20-21 of the Examiner's Answer, Examiner's Response to Argument's section (10)(b)(iii), that:

"Secondly, the management program of Schlonski is disclosed as being resident on the imaging device being configured, such that the administrator is required to surf across a network with a browser to utilize the management program through the imaging devices embedded webserver, as set forth in response to argument (ii), and further discloses the process of storing list of other imaging devices in an imaging system (fig. 2 item #106, fig. 4).

Figure 4 of Schlonski explicitly indicates a system that surfs across a network with a web browser and utilizes the embedded web server of the imaging devices in order to configure or update the configuration of the imaging device.

As such, the claim fails to call for configuring the imaging device itself, self configuration and/or automatic configuration, thus excluding a need for showing the feature.” {Emphasis in Original}

Again, as detailed above, Appellant disputes that the workstation of Schlonski et al. is the same as an “imaging device” as defined by the Appellant’s Specification or even the printers with embedded webservers of Schlonski et al. In addition, Appellant also respectfully maintains that the workstation of Schlonski et al. is functionally different than the imaging devices of the claimed invention or the printers of Schlonski et al. and does not disclose or suggest that one can “surf” across the network to access the management program resident on the workstation, only that one must surf across the network to access the local management programs of the printers. Further, the management program of the workstation of Schlonski et al. does not disclose or suggest that it configures the workstation itself with the management program and does not disclose or suggest copying a configuration of workstation itself to other selected imaging devices on the network from the list.

In view of the foregoing, and as supported in its Amended Appeal Brief filed July 18, 2007, Appellant contends that the claims of the Present Application do require that the management facility allow configuration of the imaging device that the management facility/embedded webserver is resident on and that the management program on the workstation of Schlonski et al. does not require the Administrator to “surf” across a network with a browser to utilize the management program through the imaging device's embedded web server as claimed by the pending claims. As such, Appellant maintains that one of ordinary skill in the art would recognize claims 1-22 as being clear and definite to allow one to make and use the claimed invention, and that the claims and Specification do teach and disclose all elements relied upon. In addition Appellant also

maintains that claims 1-22 are again shown herein to be patentably distinct from Schlonki et al. and that Schlonski et al. does not teach or suggest each and every limitation of Appellant's claims.

III. Conclusion

Appellant has taught methods and apparatus for communicating a configuration change across a network 206, 210, 306, 310, 356, 360, 402, 404, 406 to a management facility resident on a first imaging device 200, 300, 350, 410, 416, wherein the management facility is accessible through a network interface and an embedded webserver 202, 302, 352 of the first imaging device and displayed on a browser 204, 304, 354, 408. The management facility of the Present Application allows the Administrator to configure the first imaging device 200, 300, 350, 410, 416 by communicating the configuration change to the management facility on the first imaging device 200, 300, 350, 410, 416. In addition, the management facility of the Present Application allows the Administrator to select at least one other imaging device 412, 414, 418 from a list of other imaging devices stored on the first imaging device 200, 300, 350, 410, 416 and communicate the configuration change, directly or indirectly, from the first imaging device 200, 300, 350, 410, 416 to the at least one other imaging devices 412, 414, 418 selected from the list of other imaging devices.

Appellant has demonstrated that the Specification of the Present Application discloses and enables the claims in such a manner to allow one of ordinary skill to make and use the invention. In addition, Appellant has also demonstrated that the references applied against the rejected claims do not teach or suggest, either expressly or inherently, each and every element as set forth in the claims. In particular, the definition of "imaging device" as including terminals in the specification does not explicitly define workstations and desktop computers as being imaging devices. In addition, the references applied against the rejected claims, either alone or in combination, do not teach or suggest imaging devices having management facilities accessible through embedded web servers

that allow for configuration of the imaging device and one or more other imaging devices selected from a list stored on the first imaging device, but merely purport to manage imaging devices with embedded webservers from a workstation.

Appellant has further demonstrated that several of the statements and theories upon which the Examiner relies in support of rejection are in error.

For at least the reasons discussed above and as provided in Appellant's Amended Appeal Brief, Appellant submits that the pending claims are patentable. Accordingly, Appellant requests that the Board of Appeals reverse the Examiner's decisions regarding claims 1-22. Accordingly, Appellant requests that the Board of Appeals reverse the Examiner's decisions regarding claims 1-22.

Respectfully submitted,

Date: _____

12/21/07



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